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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,945	02/22/2006	Allan David Cockerell	A9953	8557

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EXAMINER

NGUYEN, DUNG V

ART UNIT	PAPER NUMBER
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3723

MAIL DATE	DELIVERY MODE
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05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,945

Applicant(s)

COCKERELL, ALLAN DAVID

Examiner

Dung V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-91 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 61-69, 72-79, 84, 85 and 89-91 is/are rejected.
- 7) ☒ Claim(s) 70, 71 and 80-84 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/22/2006 & 1/31/2007</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

2. The statement: "I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations § 1.56(a)" is incorrect. The correct statement should read: "I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations § 1.56".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 61-63, 65-69, 72, 76, 79, 84 and 88-90 are rejected under 35 U.S.C. 102(b) as being anticipated by Barenberg et al (US 2004/0025858). Barenberg et al discloses a method of forming a crack in a concrete article 11 having a crack promoting insert 8 within the concrete 11 comprising positioning a tool 6 having a force

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applying member above the surface of the concrete article 11 whereby the member is located above the insert 8, causing the tool 6 to apply a force to concrete article 11 to promote formation of a crack in the concrete article 11 along the insert 8. Barenberg et al also discloses an apparatus for forming a crack in a concrete article 11 provided with a crack promoting inert 8 therein comprising a chassis 10 supporting a tool 6 having force applying member, means for causing the tool to apply a force to the concrete article to promote the formation of a crack in the concrete article 11 along the insert 8 (note Fig. 1-4, paragraph [0031] through [0035]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 64 and 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barenberg et al (US 2004/0025858) in view of Cook et al (WO 2006/001713).

Barenberg et al disclosed the claimed invention as described above, however, Barenberg et al does not disclose the insert arranged in a grid, or the insert having "T" shaped configuration and arranged to each other and including connectors. Cook et al discloses inserts arranged in a grid, or the insert having "T" shaped configuration and arranged to each other and including connectors (note Fig. 4, 5, 7 and 8, page 7, line 24 to page 8, line 7, page 9, lines 4-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and apparatus of

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Barenberg et al with the grid inserts as disclosed by Cook et al in order to control a crack in concrete article.

7. Claims 77, 78 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barenberg et al (US 2004/0025858) in view of Cook et al (USPN 6,203,112).

Barenberg et al disclosed the claimed invention as described above, however, Barenberg et al does not disclose a chassis supporting steerable wheel and a laser guidance system. Cook et al discloses a chassis supporting steerable wheel 110 and a laser guidance system 350 (note Fig. 1 and 4, col. 5, lines 15-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and apparatus of Barenberg et al with the wheel and laser guidance system as disclosed by Cook et al in order to move the apparatus and accurately align the apparatus with the inserts.

Allowable Subject Matter

8. Claims 70, 71, 80-83, 86 and 87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lill and Hough are cited to show method and apparatus for forming crack in concrete.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung V. Nguyen whose telephone number is 571-272-4490. The examiner can normally be reached on IFP Program.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DUNG VAN NGUYEN
PRIMARY EXAMINER

DVN
May 15, 2007